

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MOISES ALMANZAR

19 CV 0069

No. _____

(To be filled out by Clerk's Office)

Write the full name of each plaintiff.

-against-

POLICE OFFICER MICHAEL A. RIBERO

POLICE OFFICER NATHANAEL M. DEYOUNG

POLICE OFFICER PATRICK P. CUNNINGHAM

POLICE OFFICER NICHOLAS TRAPANI

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

COMPLAINT

(Prisoner)

Do you want a jury trial?

☒ Yes ☐ No

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

| | | |
|---------------|----------------|-----------------|
| <u>MOISES</u> | <u></u> | <u>ALMANZAR</u> |
| First Name | Middle Initial | Last Name |

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

2018 04217

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Orange County Correctional Facility

Current Place of Detention

110 WELLS FARM ROAD

Institutional Address

| | | |
|---------------|-----------------|--------------|
| <u>Goshen</u> | <u>New York</u> | <u>10924</u> |
| County, City | State | Zip Code |

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced prisoner
- ☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1: MICHAEL A RIBEIRO 1161
 First Name Last Name Shield #
Police officer
 Current Job Title (or other identifying information)
2 James Street
 Current Work Address
Middletown New York 10940
 County, City State Zip Code

Defendant 2: NATHANAEL M. DEYOUNG 1137
 First Name Last Name Shield #
Police officer
 Current Job Title (or other identifying information)
2 James Street
 Current Work Address
Middletown New York 10940
 County, City State Zip Code

Defendant 3: PATRICK P. CUNNINGHAM 1151
 First Name Last Name Shield #
Police officer
 Current Job Title (or other identifying information)
2 James Street
 Current Work Address
Middletown New York 10940
 County, City State Zip Code

Defendant 4: NICHOLAS TRAPANI 1300
 First Name Last Name Shield #
Police officer
 Current Job Title (or other identifying information)
2 James Street
 Current Work Address
Middletown New York 10940
 County, City State Zip Code

V. STATEMENT OF CLAIM

Place(s) of occurrence: This incident took place on a city street within city of Middletown N.Y.

Date(s) of occurrence: On January 4, 2017 at approximately 5:16 PM of that evening.

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

I was walking down a city block of Middletown ^{when I was} ~~upon walking~~ approached and stopped by Police officer Michael R. Baro who questioned me my name & any identification this was done without any probable cause nor of me committing any crimes or breaking any laws. Upon walking away from this po as he had no probable cause to holding me he used excessive force against me where as he physically assaulted me by punching me several times to my face and body before attempting to body slam me to the pavement of the sidewalk. I was able to get away from him temporarily whereas Police Officers Nathanael Deyoung, Patrick Cunningham and Nicholas Trapini arrived on seen. I put my hands up as to surrender but Nathanael Deyoung tackles me to the floor placing my left arm in an arm-bar using excessive force. P.O. Trapini used excessive force as he jumped on my back and placed his knee on the back of my neck and continued to apply excessive force. I was now handcuffed, P.O. Deyoung starts kicking me to my ribs, Trapini is still applying force to my neck meanwhile P.O. Patrick Cunningham is now standing over me yelling stop resisting stop resisting before deploying his tazer-gun shooting me on my buttock. After the arrest I was taken in custody to Middletown Police Department where I arrived limping only to be placed in the bullpen where the assault continued with no regards to the surveillance cameras in the facility. Officer Nicholas Trapini takes off my handcuffs but not before provoking me ~~to~~ by stating to me if I wanted

to try anything that he was giving me the opportunity by uncuffing me and telling me that he wants to beat me down like a man. As soon as he uncuffs me I try talking to him stating that I was not stupid enough to try and attempt anything and give them any reason to continue their assault on me. He then grabs me by my neck with excessive force restricting my ability to breathe and states to me to go ahead try and make any movement so that he has the opportunity to beat me down like a man. For these reasons I did not accept any plead deals offer to me by the Judge Bracket before I took my case to trial in front of Judge Brown.

INJURIES: I WAS OFFERED NUMEROUS MISDEMEANOR PLEADS!!

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

I sustained injury to ~~my~~ Both Sides of my Face causing laceration and bruises from this assault. I was given medical attention at a local hospital Orange Regional Medical Center where I also had a contusion to my left ribs from the kicking of the officers, my shoulder was also hurt. I received ice and pain relievers in accordance to my stated injuries.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

I am seeking for the excessive force that was used by these ^{each of} Police officers in the amount of 100,000 for the violation of my 8th Amendment and I am asking for the violation of my 14th Amendment in restricting my Liberty by these officers acting in part of color of state in the amount of \$100,000, and for the violation of my 5th Amendment a violation of my Due Process in the sum of \$100,000, for the total amount of \$300,000 dollars in damages by these individuals.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

December 2018
Dated

Moises Almanzar
Plaintiff's Signature

MOISES ALMANZAR
First Name Middle Initial Last Name

Orange County Correctional Facility
Prison Address

Goshen New York 10924
County, City State Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: December 2018

24 Sworn to before me this
day of Dec 2018
Notary Public

Moises Almanzar
Carmile Pringle
Notary Public, State of New York
No. 01PR6092127
Qualified in Dutchess County
Commission Expires 5/12/19

DOWNSTATE CORRECTIONAL FACILITY

BOX F
RED SCHOOLHOUSE ROAD
FISHKILL, NEW YORK 12524-0445

NAME: Moises Almanzar DIN: 18A4547

RECEIVED

NY DOWNSTATE
27 DEC '18



NEOPOST

12/27/2018

US POSTAGE \$000.68



ZIP 12524
041M11284855

CORRECTIONAL FACILITY

Pro Se

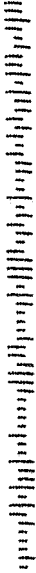
E.V.

CLERK'S OFFICE
S.B.N.Y.

2018 JAN -3 AM 9:45

Legal Mail

Clerk New York State
Supreme Court
500 Pearl Street
New York, New York 10007



659161-100001

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NEW YORK STATE
DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
OFFENDER CORRESPONDENCE PROGRAM
NAME: Moises Almanzar DIN: 18A4547